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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 JOHN GARRETT SMITH,

10 Petitioner,

11 v.

12 STATE OF WASHINGTON,

13 Respondent.

14 CASE NO. C18-5192-RBL-DWC

15 ORDER ON REVIEW DECLINING
16 TO RECUSE

17 On May 18, 2018, Judge Christel issued an Order declining to recuse himself “on notice
18 that Petitioner John Garrett Smith (“Smith”) has filed a case against the undersigned, District
19 Judge Benjamin H. Settle, and Magistrate Judge J. Richard Creatura in Grays Harbor County
20 Superior Court for the State of Washington.” Dkt. #32 at 1. In accordance with this Court’s
21 Local Rules, this Order was referred to the Chief Judge for review. *See* LCR 3(e).

22 A judge of the United States shall disqualify himself in any proceeding in which his
23 impartiality “might reasonably be questioned.” 28 U.S.C. § 455(a). Federal judges also shall
24 disqualify themselves in circumstances where they have a personal bias or prejudice concerning
a party or personal knowledge of disputed evidentiary facts concerning the proceeding. 28
U.S.C. § 455(b)(1). Normally, being named as a defendant would also require recusal: 28
U.S.C. § 455(b)(5)(i) provides that a judge shall disqualify himself when he is a party to the

1 proceeding. However, such disqualification is not required where the litigant baselessly sues or
2 threatens to sue the judge. *See In re Hipp, Inc.*, 5 F.3d 109 (5th Cir. 1993); *U.S. v. Grismore*,
3 564 F.2d 929 (10th Cir. 1977); *Bush v. Cheatwood*, 2005 U.S. Dist. LEXIS 38041, 2005 WL
4 3542484 (N.D.Ga. 2005). Pursuant to 28 U.S.C. § 144, “whenever a party to any proceeding in
5 a district court makes and files a timely and sufficient affidavit that the judge before whom the
6 matter is pending has a personal bias or prejudice either against him or in favor of any adverse
7 party, such judge shall proceed no further therein, but another judge shall be assigned to hear
8 such proceeding.”

9 Although there is no motion to recuse in this case, Judge Christel has proactively
10 declined to recuse based on a potential state court suit brought against him by Petitioner Smith.
11 *See* Dkt. #32-1. The Court has examined that suit and finds that it is so lacking in specificity as
12 to claims against Judge Christel personally that it cannot cause his impartiality to be reasonably
13 questioned or otherwise form a basis for recusal. Accordingly, the Court hereby finds and
14 ORDERS that Judge Christel’s refusal to recuse himself from this matter is AFFIRMED. The
15 Clerk is directed to refer this case and all pending Motions back to Judge Christel.

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17 DATED this 29 day of May, 2018.
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RICARDO S. MARTINEZ
CHIEF UNITED STATES DISTRICT JUDGE